(4)

No. 06-488

IN THE

SUPREME COURT OF THE UNITED STATES

RONNIE MICKENS and
GLORIA J. MICKENS,

Petitioners

v.

STEWART TITLE GUARANTY COMPANY,
et al.,

Respondents

Petition for a Rehearing for a Writ of Certiorari to the
United States Court of Appeals
Eleventh Circuit

PETITION FOR REHEARING FOR A WRIT OF CERTIORARI

PRO SE
RONNIE MICKENS and GLORIA J. MICKENS
6420 Odom Road
LAKELAND, FLORIDA 33809
(863)853-5991

QUESTIONS PRESENTED FOR REVIEW

1. Whether the district court and the appeal court decisions conflict with the decisions of the United States Supreme Court and with the authorities' decisions of every other District and United States Court of Appeals that has addressed these issues.

2. Whether Rooker-Feldman doctrine bars the District Court's subject matter jurisdiction when petitioners allege that the respondent's extrinsic fraud on the state court obtained two fraudulent judgments against petitioners.

3. Whether the Rooker-Feldman doctrine bars the district court's subject matter jurisdiction when Petitioners are constitutionally entitled to a judgment against the Respondents based on the merits and as a matter of law.

4. Whether the Rooker-Feldman doctrine bars the district court's subject matter jurisdiction when the Respondents extrinsic fraud on the state court extricated them

from their violations of the very strict requirements of Florida Statutes, Section 689.01, 117.05, 117.105 and 117.107 .

5. Whether Rooker-Feldman doctrine bars the District Court's subject matter jurisdiction when petitioners allege indisputable statutory fraud, cancellation of deed, quiet title, ejectment, breach of construction contract, notary's failure to validate signatures, notary's malfeasance and misfeasance in the conduct of official duties, notary's false or fraudulent acknowledgment, notary's performance of prohibited acts, equitable estoppel, civil conspiracy, negligence, conversions, fraudulent conveyance, and slander of title claims and causes of actions.

6. Whether Rooker-Feldman doctrine bars the District Court's subject matter jurisdiction when petitioners second amended complaint alleges six new non-governmental indispensable parties, three new governmental parties, independent section 1983 substantive, procedural and

stigmatization due process claims, independent section 1983 equal protection and first amendment claims, independent section 1985 (3) conspiracy claims, independent Title VII retaliation and race claims, independent extrinsic fraud claims, ten new state court claims along with five previous causes of action adjudicated in petitioners favor.

7. Whether the District court has parallel and concurrent subject matter jurisdiction with state court Case No. 1998CA-1152.

8. Whether the Rooker-Feldman doctrine bars the district court's jurisdiction when respondents' extrinsic fraud on the state court fraudulently fabricated a trial in state court Case No. 1998CA-2977.

9. Whether the Rooker-Feldman doctrine bars the district court's subject matter jurisdiction when respondent's extrinsic fraud on the state court caused one lawsuit to be split into three separate lawsuits that deprived petitioners of due process and equal protection of the laws.

11. Whether the Rooker-Feldman doctrine bars the district court's subject matter jurisdiction when Respondents conspired to fraudulently seize and convey Petitioners' real property via a "special warranty deed" in April 2004.

12. Whether the Rooker-Feldman doctrine bars the district court's subject matter jurisdiction when the Respondents extrinsic fraud on the state court deprived Petitioners of a full, fair and impartial jury trial.

LIST OF PARTIES' JUDGMENTS SOUGHT TO BE REVIEWED

Stewart Title Guaranty Company

Stewart Title of Polk County, Fla.

Allen Damron Construction Company

Allen Damron

Debra Damron

Elaine P. Canady

Edith F. Rewis

Polk County State Attorney

Polk County Sheriff

Polk County Property Appraiser

LIST OF PARENT OR PUBLICLY HELD COMPANY TO BE LISTED

Stewart Information Service Corporation (SISCO)

TABLE OF CONTENTS **PAGE**

QUESTIONS PRESENTED.....i

PARTIES TO PRECEDDINGS.....v

TABLE OF AUTHORITIES.....vi

JURISDICTION.....1

STATUTORY PROVISIONS INVOLVED.....1

STATEMENT OF THE CASE.....1

ARGUMENTS I 3

CONCLUSION.....10

CERTIFICATE

TABLE OF AUTHORITIES **PAGE**

Allen Damron Construction Co., vs. Mickens
725 So. 1174, 1175 (Fla.2d DCA 1998).....10

Barrow v. Hunton
99 U.S. (9040) 80, 25 L.Ed. 407 (1878).....3

District of Columbia Court of Appeals v.
Feldman, 103 S.Ct. 1303.....1-10

Exxon Mobil Corporation Exxon Chemical
Arabic, Inc., v. Basic Industries Corporation,
125 S.Ct. 1517.....10

Garcia v. Hilton Hotels, 97 F. Supp. 5.....8

Girarad v. Trembley, 384 So.2d 39
(Fla. 3d DCA 1980).....7

Mackay v. Feil, 827 F.2d 540, 543-44
(9th Cir. 2004).....3

Noel v. Hall, 341 F.Ed. 1148 (9th Cir. 2004).....4

Rooker v. Fedelity Trust Co.,
44 S.Ct. 149.....1-10

Walker v, City of Jacksonville,360 So.2d 53
(Fla. 1st DCA 1978).....7

F.S. Chapter 65 & 66.....1
F.S. Section 689.01, 117.05, 117.105,117.107, 831.01,
831.02.....1,5,6,7

JURISDICTIONAL STATEMENT

Jurisdiction is based on a United States Court of Appeals that has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter and has so far departed from the accepted and usual course of judicial proceedings and sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. The dates of the orders that petitioners Mickens are seeking to be reviewed are July 11, 2006, May 22, 2006, September 19, 2005, September 9, 2005 and August 29, 2005.

STATUTORY PROVISIONS INVOLVED

This appeal concerns whether the Rooker-Feldman doctrine bars the federal district court's subject matter jurisdiction when state court judgments were obtained by fraud in violation of Florida Statute Chapter 65, 66, , 812 and Florida Statutes, Sections 689.01, 117.05, 117.105, 117.107, 831.01, 831.02.

STATEMENT OF THE CASE AND FACTS

This case is about whether the Rooker-Feldman doctrine bars the district court's subject matter jurisdiction when petitioners allege that the Rooker-Feldman doctrine is being used as a pretext to conceal the Respondents fraud, individualized racism and Petitioners' state court final judgment on the merits.

As a matter of law it is unconstitutional for respondents to be lawfully awarded a valid $234, 854.64 final judgment and a valid foreclosure final judgment against petitioners and petitioners property to benefit them for their fraudulent actions. In state court, the respondents obtained a fraudulent $234, 584.64 money judgment and a foreclosure judgment against Petitioners without legal or equitable standing, without a right of action and without a claim or cause of action.

The federal district court and appeals court fundamentally erred when they determined that the

meritorious adjudicated issues, facts, findings, claims, and orders were reversed in state court Case No. 1997CA-0455. .

ARGUMENT I

THE LOWER COURTS HAS ENTERED DECISIONS IN THIS CASE THAT CONFLICTS WITH THE DECISIONS OF ALL OTHER UNITED STATES COURTS OF APPEALS AND THE SUPREME COURT ON THE SAME IMPORTANT MATTER, AND HAS DEPARTED FROM THE ACCEPTED AND REQUIRED COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR AN EXERCISE OF THE SUPREME COURT'S SUPERVISORY POWER

It has long been the law that a plaintiff in federal court can seek to set aside a state court judgment obtained through fraud. In Barrow v. Hunton, 99 U.S. (9 OHO) 80, 25 L. Ed. 407 (1878), the Supreme Court distinguished between errors by the state court, which could not be reviewed in federal district court, and fraud on the state court, which could be the basis for an independent suit in the federal court. See Mackay v. Feil, 827 F. 2d 540, 543-44 (9th Cir. 1987).

Extrinsic fraud on a court is, by definition, not an error by that court. It is, rather, a wrongful act committed by

the parties who engaged in the fraud. In the words of Noel v. Hall, 341 F. 3d 1148, 1154 (9th Cir.2003), petitioner's does not assert "as a legal wrong an allegedly erroneous decision by a state court" but rather "an allegedly illegal acts or omissions by adverse parties.

When there is parallel state and federal litigation, Rooker-Feldman is not triggered simply by the entry of judgment in state court. Rooker nor Feldman supports the notion that properly invoked concurrent jurisdiction vanishes if a state court reaches judgment on the same or related question while the case remains sub judice in a federal court. The district court presently has parallel jurisdiction with state court case no. 1998-CA-1152. The district court admitted that petitioners commenced this federal action before state court case no. 1997-CA-0455 was considered to be complete in state court.

The Rooker-Feldman doctrine does not bar the district court's subject matter jurisdiction when Respondent(s)

extrinsic fraud obtained a fraudulent state court judgments because Petitioners objected to a unlawful remedy or order that was for the benefit of the Respondents, the losing party(s). Petitioners Mickens were not in a mortgage relationship with the respondent(s). The Respondent(s) fraudulently seized Petitioners property.

The Rooker-Feldman doctrine does not bar the district court's subject matter jurisdiction because Respondents extrinsic fraud obstructed the joinder of Stewart Title Guaranty Company, Stewart Title of Polk, Allen and Debra Damron, Canady and Rewis in state court case nos. 1997-CA-0455 and Stewart Title of Polk, Damron Construction, Allen and Debra Damron, Canady and Rewis in state court case nos. 1998-CA-2977. It is unconstitutional for respondents to be granted a $234,584.64 final judgment and a foreclosure final judgment as awards for violating the very strict requirements of Florida Statutes, Sections 689.01, 117.05, 117.105, 117.107.

The Rooker-Feldman doctrine does not bar the district court's subject matter jurisdiction because respondents extrinsic fraud on the state court violated principles of issue preclusion, res judicata, the law of the case, stare decisis, unclean hands, bona fide purchaser for value, legal and equitable standing, right and cause of action, de nova trial, procedural due process and equal protection of the laws.

The Rooker-Feldman doctrine does not bar the district court's subject matter jurisdiction because respondents extrinsic fraud on the state court extricated them from their violations of the strict requirements of Florida Statutes, Section 689.01 in state court. The District Court and the 11th Circuit Court of Appeals erred by failing to consider Respondents Stewart Title Guaranty Company, it's employees and agents violations of the very strict requirements of Florida Statutes, Sections 689.01, 117.05, 117.105, 117.107. Florida Statutes 689.01 states in pertinent part:

"No estate...or any uncertain interest of, in or out of any ...lands ...shall be created, made, granted, transferred or released in any manner than by instrument in writing, signed in the presence of two subscribing witnesses by party creating, making, granting, conveying, transferring or releasing such estate, interest, ...and no estate ...or any uncertain interest of, in to or out of any ...lands...shall be assigned or surrendered unless it be by instrument signed in the presence of two subscribing witnesses by the party so assigning or surrendering, or by the party's agent thereunto lawfully authorized, or by the act and operation of law."

Section 117.05 "Notary's failure to validate signatures"
Section 117.105 "Notary's fraudulent Acknowledgment"
Section 117.107 "Notary's performance of prohibited acts".

If a deed does not comply with the statutory requirements of Florida Statutes, Section 689.01 the deed does not create any legal rights in the real property. See Girard v. Trembley, 384 So. 2d 39 (Fla. 3d DCA 1980); Walker v. City of Jacksonville, 360 So. 2d 52 (Fla. 1st DCA 1978).

The Rooker-Feldman doctrine does not apply because in April, 2004, the respondents fraudulently created and recorded in the Polk County Property Public Records without authority or a court order a fraudulent "special warranty deed

that was used to supplant Petitioners Mickens' warranty deed. The respondents **VOID AB INITIO** quitclaim deed did not convey any rights, interests, claims or title in petitioners' private real property to anyone.

The Rooker-Feldman doctrine does not bar the district's court subject matter jurisdiction because this lawsuit joins for the first time all the indispensable parties as defendants/respondents and claims in the same lawsuit. The respondents relationships and interests have not been considered in the same lawsuit. Petitioners Mickens have not been afforded an opportunity to litigate against respondents Stewart Title Guaranty Co.,Stewart Title of Polk, Canady, Rewis, Allen and Debra Damron as parties.

The Rooker Feldman doctrine applies only when federal plaintiffs asserts as their injury legal error or errors by state court, and seek as his remedy relief from state court judgment; doctrine does not apply when injury asserted is

illegal acts or omissions by adverse parties. The doctrine does not apply because of Respondents extrinsic fraud on the state court, new evidence, indispensable parties, new independent extrinsic fraud and constitutional claims.

The Federal Rules of Civil Procedure require petitioners to state a claim upon which relief can be granted. The respondents motions to dismiss does not tests whether complaint affirmatively states a cause of action, and such motion should be denied though complaint be infirm, if it appears that at trial plaintiffs might establish a cause of action. Motions for dismissal are directed at failure to state a claim upon which relief can be granted and not at failure to state a cause of action. Garcia v, Hilton Hotels, 97 F. Supp. 5.

The Rooker-Feldman doctrine and the Supreme Court's appellate jurisdiction over state courts judgments does not stop district courts from exercising subject matter jurisdiction if federal plaintiffs present some independent claims, albeit one that denies a legal conclusion that state

court has reached in case to which he is a party, then there is jurisdiction and state law determines whether defendants prevail under preclusion law. 28 U.S.C.A. Section 1257. See Exxon Mobil Corp. v. Saudi Basic Corp., 125 S. Ct. 1517.

WHEREFORE, Petitioners, Ron Mickens and Gloria J. Mickens pray that this court reverse and remand for a trial.

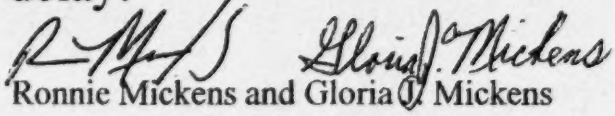
CONLUSION

In the original state court case nos. 1997-CA-0455, the Second District Court of Appeals reversed the final judgment entered on Petitioners Mickens Counterclaim because the relief provided by the judgment was un-requested, undesired, unsupported by the evidence and objected to by both parties. The Second District Court of Appeals did not reverse and remand for a new trial nor did it remand to take new or additional evidence.

Ron Mickens and Gloria V. Mickens
6420 Odom Road
Lakeland, Florida 33809
(863) 853-5991

CERTIFICATE

We, Petitioners Ronnie Mickens and Gloria J. Mickens certify that this petition for rehearing is restricted to the grounds specified in Rule 44 paragraph 2 and that it is presented in good faith and not for delay.



Ronnie Mickens and Gloria J. Mickens
6420 Odom Road
Lakeland, Florida 33809
(863) 853-5991